

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES ERNEST CHANDLER,

Defendant-Appellant.

UNPUBLISHED
September 8, 2000

No. 206890
Shiawassee Circuit Court
LC No. 96-007713-FC

Before: Gage, P.J., and White and Markey, JJ.

MARKEY, J. (concurring)

I concur with Judge White for the simple reason that I believe she has correctly interpreted and applied the law as it currently exists. In her dissent, Judge Gage articulates thought provoking and perhaps desirable public policy, but she fails to address the key legal obstacle here: MCR 6.005(C)'s plain language providing only for "contribution" if a defendant is only partially indigent. As Judges, I believe it is incumbent upon us to apply the law as written leaving any substantive changes to the Legislature. I write separately to highlight my belief that this is an area that the Legislature may wish to explore.

I am concerned that our decision today may have far-reaching and perhaps unintended or desired ramifications. In my experience, the appointment of counsel to a defendant is handled in very different ways throughout the State. In some courts, counsel is routinely appointed with only minimal or pro forma inquiry into the defendant's financial situation, so that the system can function as smoothly and as quickly as possible. In other areas, counsel may be appointed very sparingly. Most jurisdictions, however, require some sort of contribution and/or reimbursement of court-appointed attorney fees and expenses. Again, however, there appears to be little uniformity in how these matters are handled.

I believe it would be of great assistance to both bench and bar to have these issues clarified, which in my opinion requires legislative intervention.

In respect to the instant case, I believe it was within the trial court's discretion to order contribution - not reimbursement - after considering defendant's financial status. So, had the order been framed so as to require some set amount of contribution, I would find no abuse of discretion because MCR 6.005(C) would so allow.

/s/ Jane E. Markey